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January 15, 2020

Via ECF

Judge LaShann DeArcy Hall
United States District Court Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

**Re: Celestin, et al v. Martelly, et al; Case No. 1:18-cv-07340-LDH-PK
REQUEST FOR JUDICIAL NOTICE**

Your Honor:

Plaintiffs respectfully request that the Court, pursuant to FED. R. EVID. 201, take judicial notice of the congressional hearing testimony held by the Committee on Foreign Affairs. United States Congress Committee on Foreign Affairs, *Haiti on the Brink: Assessing U.S. Policy Toward a Country in Crisis*, YOUTUBE (Dec. 10, 2019), https://www.youtube.com/watch?v=wuM_TAp75p8&authuser=0.

Federal Rule of Evidence 201(b) provides that this Court may take judicial notice of facts that are “not subject to reasonable dispute” because they are either “generally known within the trial court’s territorial jurisdiction” or “can [] accurately and readily [be] determined from sources whose accuracy cannot reasonably be questioned.” Specifically, courts may “take judicial notice of congressional hearing testimony.” *In re Moody’s Corp. Securities Litigation*, 599 F. Supp. 2d 493, 504 (2 Cir. 2009) (“...Congressional hearing testimony [] are public records, which courts in this District have found to be subject to judicial notice.”); citing *Long Island Lighting Co. v. Transamerica Delaval, Inc.*, 646 F. Supp. 1442, 1446 (2 Cir. 2008) (“ finding that Congressional hearing testimony is a public record subject to judicial notice.”).

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The Congressional hearing testimony is properly the subject of judicial notice. It is published by the Congress of the United States, and not subject to reasonable dispute. Plaintiffs seek judicial notice now because the congressional hearing was only recently held. The allegations in Plaintiffs' Complaint together with the issues raised by Plaintiffs in their defense (Docket No. 63) to Defendants' motion to dismiss Plaintiffs' Complaint based on *forum non conveniens* and act-of-state (Docket Nos. 64 and 66), which is still pending before the honorable Court, are inextricably intertwined with the Congressional hearing testimony that this Court may judicially notice.

Judicial notice of the Congressional hearing testimony is necessary to give the Court a more complete understanding of the inadequacy of Haiti's judicial system and its corrupt nature due to its total dependence on the executive branch; and, as Charles-Louis de Secondat, better known as Montesquieu, brilliantly wrote centuries ago, "when the judicial power is joined to the legislative power, its power over the lives and freedom of its citizens is arbitrary; for the judge acts as a legislator; when joined to the executive power, the judge has the strength of an oppressor."

The Congressional hearing testimony is highly pertinent to Plaintiffs' claims, not subject to reasonable dispute, and critical to the disposition of the pending Motion to Dismiss. As such, it may be considered in the determination of Defendants' Motion to Dismiss Plaintiffs' Complaint based on *forum non conveniens*, and act-of-state.

For the foregoing reasons, Plaintiffs respectfully requests that the Court take judicial notice of and consider the Congressional hearing testimony, attached herein, in its determination of Defendants' Motion to Dismiss.

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Respectfully submitted,

/s/ Marcel P. Denis

Marcel P. Denis

cc: All Counsel of Record via ECF